

TENTATIVE RULINGS for CIVIL LAW and MOTION

January 7, 2010

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted at the entrance to the courtroom and on the Yolo Courts Website, at www.yolo.courts.ca.gov. If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Fifteen: (530) 406-6941

TENTATIVE RULING

Case: **Hooshnam v. Battaglia**

Case No. CV CV 07-1779

Hearing Date: **January 7, 2010** **Department Fifteen** **9:00 a.m.**

Plaintiff cites Code of Civil Procedure section 2023.030, subdivision (d)(4) and *Electronic Funds Solutions, LLC v. Murphy* (2005) 134 Cal.App.4th 1161 in support of her motion for terminating sanctions. *Electronic Funds Solutions, LLC v. Murphy* is factually distinguishable. Code of Civil Procedure section 2023.030 provides that to the extent authorized by the chapter governing any particular discovery method, the court may impose monetary, issue, evidence and/or terminating sanctions against anyone engaging in conduct that is a misuse of the discovery process. The statutes governing the discovery requests at issue do not authorize terminating sanctions in the first instance. (Code Civ. Proc., §§ 2025.450 and 2030.290.) Accordingly, the motion for terminating sanctions is **DENIED**.

The motion to compel the defendants to appear at a deposition and to produce the documents described in the notice of deposition dated October 6, 2009, is **DENIED WITHOUT PREJUDICE**. Plaintiff's motion does not set forth specific facts showing good cause justifying the production of the documents described in the deposition notice, as required under Code of Civil Procedure section 2025.450, subdivision (b)(1).

The motion to compel the defendants to answer the form interrogatories from the plaintiff is **GRANTED**. (Code Civ. Proc., § 2030.290.) The Court is inclined to award monetary sanctions against the defendants to compensate the plaintiff for the attorney's fees and costs incurred in bringing the motion to compel interrogatory responses. Plaintiff's counsel Richard Miller shall promptly file a declaration specifying the attorney's fees and costs incurred in relation to the motion to compel interrogatory responses only.

Defendants shall serve verified answers to the form interrogatories, sets no. one from the plaintiff, without objections, **by no later than January 21, 2010.**

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

